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March 17, 2023

VIA ECF FILING ONLY

Hon. Lorna G. Schofield, U.S.D.J.
United States District Court, SDNY
500 Pearl Street
New York, NY 10007

Re: Powers v. Memorial Sloan Kettering Cancer Center, et al.
Docket No. : 1:20-cv-02625

Dear Judge Schofield:

Although Your Honor did not ask the parties to respond to the other party's objection letter to proposed demonstratives, given that Plaintiff filed a response in support of his demonstratives (Doc. 430), Defendants feel compelled to provide a brief response to Plaintiff's objections to Defendants' first set of demonstratives.

In short, Defendants will have medical expert testimony at trial to support both demonstratives. Moreover, as to the heat sync illustration, Plaintiff's counsel agrees it is a "complex medical phenomena" such that an illustration of this concept is entirely appropriate and proper.

As to the properly identified radiology image with measurements, the defendant physician and Defendants' experts all testified (and provided expert reports) that there was sufficient distance between the lesion and structures in the liver to have proceeded with the ablation. Plaintiff's counsel was free to ask any of those witnesses what those exact measurements were during discovery, but did not do so. This demonstrative properly assists to explain to the jury the defendant physician's testimony and expert's opinions.

Accordingly, Defendants respectfully ask that DD-21 and DD-22 be permitted during trial.

Respectfully submitted,

KAUFMAN BORGEEST & RYAN LLP

/s/ Betsy D. Baydala

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Powers v. Memorial, et al.
Page 2 of 2

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